



## Industry calls for a more harmonized, targeted and efficient Foreign Investment Screening Regulation to protect the EU's access to capital

**Brussels, 11 February 2025** – Foreign investment is vital for Europe's global competitiveness, innovation capacity and job creation<sup>1</sup>. However, the volume of foreign investments in the EU currently remains significantly below pre-pandemic levels<sup>2</sup>. This partly reflects global trends, such as increasing geopolitical and macroeconomic uncertainties, but also evidences a critical need to adopt measures that improve Europe's attractiveness and investment climate, while helping address legitimate national security concerns. Such measures are needed not only to stimulate economic growth, but also to reinforce the EU's position as a competitive and secure investment destination.

The proposed Foreign Investment Screening Regulation is a key opportunity to simplify the existing patchwork of complex and fragmented investment screening rules in the EU, which creates a significant burden for investors. A more harmonized screening system, with clear and consistent terminology and criteria, streamlined procedures and stronger coordination between national authorities would help reduce red tape and provide greater confidence to those seeking to invest in the EU. It would also help enhance the Single Market by reducing unjustified barriers, notably for investments involving multiple Member States, which now represent more than a third of notified transactions<sup>3</sup>.

While we welcome the provisions designed to enhance coordination and efficiency of screening processes, we are also concerned that the proposal's broad scope could impact a disproportionate number of transactions, undermining the EU's attractiveness as an investment destination, and deterring investments that are needed to modernize and strengthen the EU's supply chains. We urge the co-legislators to ensure a balanced and targeted Regulation that safeguards Europe's security interests without stifling its economic growth and competitiveness, enabling a resilient and prosperous future for industries and investors alike. In particular, the co-legislators should ensure that the Regulation effectively delivers on the following objectives:

### 1. Avoiding overburdening the system with low-risk transactions

In their current form, Annexes I and II of the Commission's proposal, which determine the minimum scope of investments subject to a mandatory authorisation requirement, could significantly impact the ability of EU businesses to access capital in a timely manner.

Tens of thousands of European businesses, notably start-ups and SMEs, are beneficiaries of the Horizon 2020, Horizon Europe and Digital Europe programmes – all of which are listed in Annex I of the proposal. A vast majority of these beneficiaries do not carry out activities relevant for national security and public order. Therefore, imposing an authorisation requirement on all foreign investments involving these businesses simply because they participate in those programmes is not proportionate, and could disincentivise businesses from applying for EU funding.

<sup>1</sup> [https://policy.trade.ec.europa.eu/help-exporters-and-importers/accessing-markets/investment\\_en](https://policy.trade.ec.europa.eu/help-exporters-and-importers/accessing-markets/investment_en)

<sup>2</sup> [https://ec.europa.eu/transparency/documents-register/detail?ref=COM\(2024\)464&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=COM(2024)464&lang=en)

<sup>3</sup> Ibid.

Furthermore, it is in the EU's interest to reap economic benefits from the monetisation of intellectual property (IP) derived from the EU funding programmes listed in Annex I. The Regulation should therefore not be used however as a blunt instrument to curtail any export of Intellectual Property (IP) outside of the EU.

- **Ask 1:** Participation in EU funding programmes should be considered as one of the risk criteria in the screening process (and included in Article 13), rather than a basis for mandatory authorisation requirements and the co-legislators should ensure that any listed funding programmes have a relevant security nexus. In addition, only significant proposed transfers of IP ownership outside of the EU should be considered as a risk factor.

Similarly, Annex II currently targets an excessively broad and imprecise range of sectors, including a list of 'critical technology areas' that spans virtually the entire technology ecosystem. This would create significant uncertainty for investors and potentially lead to pre-emptive notifications of low-risk cases, increasing the caseload for screening authorities.

- **Ask 2:** Ensure Annex II focuses on investments involving export-controlled goods and military equipment – as opposed to relying on broad sectoral lists with no risk criteria – or at the very least includes clear and narrow definitions of covered sectors. The Regulation should strike a balance between identifying critical cases that impact European and national security, and avoiding unnecessary restrictions on transactions involving goods that have diverse applications across multiple sectors (e.g. machine tools). In addition, any changes to the scope of Annex II should be subject to review by the co-legislators (also considering international control regimes and national policies, such as the so-called 'golden share'), rather than being carried out through Delegated Acts. The definition of the term "economically active" in Article 4(4)(b) should also be narrowed to avoid indiscriminately targeting all end-users of listed items. The current wording would require Member States to impose an authorisation requirement on investments involving end-users of widespread technologies such as AI, cloud computing and the Internet of Things.

In addition, transactions that do not provide investors with meaningful governance rights, or lead to a change of ultimate owner, should not be captured by the Regulation.

- **Ask 3:** Capture investments that meet the threshold of 'control' defined in the EU Merger Regulation and Foreign Subsidies Regulation. This harmonized approach, already adopted by some Member States, would ensure a predictable and consistent process for investors in assessing what constitutes a notifiable event. In addition, it should be clarified that internal corporate restructurings that do not lead to a change of ultimate owner are not covered by the Regulation, and that greenfield investments are not subject to the Regulation's mandatory authorisation requirements.

In sum, while the proposed Foreign Investment Screening Regulation aims to protect the EU's strategic interests, its broad scope risks overburdening the system with low-risk transactions, reducing the EU's attractiveness as an investment destination and deterring essential capital inflows, especially for SMEs and startups reliant on timely investments for growth and innovation. To counteract this, we call for a more targeted approach that focuses on high-risk cases and prevents unnecessary delays and burdens.

## 2. Strengthening investor safeguards and procedural efficiency

Due process and procedural efficiency are foundational to the rule of law and investor confidence. Therefore, we strongly support the Commission's proposals that Member States notify investors of forthcoming screening decisions and provide adequate judicial recourse mechanisms (Articles 4(3) and 4(2)(e)). In addition, the annual reporting mechanism is also a useful transparency tool to provide investors with early guidance on substantive, procedural and jurisdictional issues. In order to further

reduce red tape and prevent distortions to the Single Market, Member States should also align around a stronger set of binding procedural requirements.

- **Ask 4:** Ensure that:
  - National screening authorities are adequately resourced to deal with all cases;
  - Timelines for preliminary review and in-depth investigations are short and consistent across Member States (e.g., a maximum of c.30 calendar days for preliminary review, in line with the timelines in the cooperation mechanism);
  - The expiration of review timelines results in transactions being cleared (or at a minimum the adoption of a decision by that deadline);
  - Investors subject to minor mitigating measures are not automatically referred to the cooperation mechanism;
  - Own-initiative procedures do not apply to investments that have already been screened and approved by a Member State;
  - The current ‘call-in’ window of “at least 15 months” to review closed transactions is at the very least reduced to the current maximum of 15 months, or preferably shortened; and
  - Member States and the Commission provide investors with detailed, easily accessible guidance on national screening rules and procedures, national and EU-wide risk assessment criteria, on their decisions and cases, and any relevant documentation.

In sum, the Foreign Investment Screening Regulation presents an important opportunity to ensure the EU can effectively tackle high-risk investments while minimising red tape, improving transparency and ensuring due process for investors. While investment screening remains a national competence, reducing divergences between national screening regimes is necessary to protect the Single Market and ensure that the most onerous measures focus on transactions that pose genuine security risks. Getting this balance right is a necessity for Europe’s long-term competitiveness, as European companies’ ability to access capital is at stake. Given the importance of this Regulation for Europe’s investment climate, we also suggest that the Commission publishes an evaluation report earlier than the 5 years currently proposed.

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1. [AmChamEU](#) (Advocating for American business in Europe)
2. [CECIMO](#) (European Association of Manufacturing Technologie)
3. [CCIA Europe](#) (Computer & Communications Industry Association)
4. [EABC](#) (Europe-Australia Business Council)
5. [EBF](#) (European Banking Association)
6. [EuroISPA](#) (European Internet Service Providers Association)
7. [EuroQUIC](#) (European Quantum Industry Consortium (QuIC))
8. [ESF](#) (European Services Forum)
9. [IBEC](#) (Irish Business & Employers Confederation)
10. [InvestEurope](#) (European Private Equity and Venture Capital Association)
11. [ITIC](#) (Information Technology Industry Council)
12. Digital Technology Employers [Lewiatan](#) (Polish Confederation Lewiatan)
13. [SEMI Europe](#) (microelectronics industry association)
14. [SP](#) (Confederation of Industry of the Czech Republic)
15. [SN](#) (Confederation of Swedish Enterprises)